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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,734	11/01/2001	Charles G. Williamson	09741620/0206	2705

7590

09/04/2003

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EXAMINER

BAHTA, KIDEST

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 09/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/003,734

Applicant(s)

WILLIAMSON, CHARLES G.

Examiner

Kidest Bahta

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Oath/Declaration***

1. The substitution Declaration or Oath filed on February 21, 2002, has been acknowledged.

***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on April 11, 2002, has been considered.

***Drawings***

3. The drawings were received on March 08, 2002. These drawings are accepted.

***Specification***

4. Acknowledgment is made of applicant's Preliminary Amendment filed July 25, 2002 of claims 1, 8, 12 and 13.

***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of 1, 4-7, 9-11, 13-15 and 17-18 copending Application No. 10/000783 and claims 1-13 of copending Application No. 10/000784. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application No's '783 and '784 discloses all the limitation except "a oven" and "a *heat generator*". However, it would have been obvious to one skill in the art to recognize that "a breadmaker", and "a baking chamber" of application No. '783 and the "a microwave oven" and "a *microwave generator*" of application '784 are equivalent/ has the same function to "a oven" and "a *heat generator*" of '374.

Further, the organizational elements in the claims and their functionality are merely obvious variations of each other. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claims 1, 5, 8 and 11 of copending Application No. 10/003,734 to include "a oven" and "a *heat generator*" instead of "a *breadmaker*" and "a *baking chamber*" as claimed in claims 1, 7, 11 and 15 of copending Application No. 10/000,783. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claims 1, 5, 8 and 11 of copending Application No. 10/003,734 to include "a oven" and "a *heat generator*" instead of "a microwave oven" and "a *microwave generator*" as claimed in claims 1, 5, 8 and 11 of copending Application No. 10/000,784. Please note that the same program having the same functions is used in different cooking appliances, such as microwave, oven and breadmaker.

Furthermore, the Applicant specification (copending Application No. 10/000783, 10/000784 and 10/007343) discloses that the controller appliance can apply for coffeemaker, bread maker, oven and microwave.

Regarding claims 2-4, 6-7, 9-10 and 12-13 of copending Application No. '734 read on claims 4-6, 9-10, 13-14 and 17-18 of Application No. '783 and read on claims 2-4, 6-7, 9-10 and 12-13 of Application No. '784, respectively.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated Yung (U.S. Patent 6,196,113).

Regarding claims 1, 5, 8 and 11, Yung discloses code input device (Fig. 2 element 25, i.e., control panel); a housing (Fig. 5B, element 154); a heat generator (Fig. 5B, element 150; column 7, lines 44-51; i.e., chamber) disposed in association with the

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housing (column 7, lines 42-46) and operates the oven in accordance with a recipe program selected from the plurality of recipe program in view of a code input by the code input device (column 11, lines 1-57); storing the plurality of recipe programs in the memory (Fig. 6, element 225 and 254) by the controller (Fig. 6, element 250; column 9, lines 11-24) that are each selectable with digital signal from a code input device (column 11, lines 8-22); configuring the oven in response to the digital signal associated with one recipe program in the plurality of recipe programs (column 8, lines 21-25; & lines 44-48; column 11, lines 8-22) and a network interface (Fig. 6, element 295) in communication with controller (Fig. 6, element 250) that a recipe program from an operable connected, but external device (Fig. 6, element 294 & 296; i.e., TV & PC, respectively) and receives the requested recipe program (column 9, lines 11-59; column 10, lines 16-29).

Regarding claims 2, 7, 10 and 13, Yung discloses a clock operable coupled to the controller (Fig. 2) and set upon receipt at network interface of a time synchronization message (it is inherent in all computer networks that the clocks are synchronize. column 6, lines 42-56).

Regarding claims 3-4, 6, 9 and 12, Yung discloses a recipe program request messaged including the input code is formatted by the controller in response to the code input device (column 6, lines 27-33) upon the controller failing of the find a recipe program in the plurality of recipe program associated with the input code (column 6, lines 9-19); the network interface (Fig. 6, element 295; column 9, lines 46-59) is in receipt of the request recipe program associated with the input code in response recipe program request message (Fig. 6; column 10, lines 16-30).

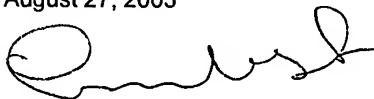
**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning communication or earlier communication from the examiner should be directed to Kidest Bahta, whose telephone number is (703) 308-6103. The examiner can normally be reached on M-F from 7:30 a.m. to 4:00 p.m. EST. If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached (703) 308-0538. Additionally, the fax phone for Art Unit 2125 is (703) 308-6306 or 308-6296. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.

Kidest Bahta

August 27, 2003

A handwritten signature in black ink, appearing to read 'Kidest Bahta', written over the typed name and date.